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in opinion

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October 19, 1955

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CONCORD, N.H.

Lawton B. Chandler, Secretary
State Tax Commission
State House
Concord, New Hampshire

Dear Mr. Chandler:

At a recent conference the opinion of this office was sought on the question whether loans guaranteed by the Federal Government under the provisions of the Serviceman's Readjustment Act of 1944 may be deducted by a savings institution in determining the amount of its deposits taxable under RSA 84:9 (R.L., c. 85, s. 9). We answer in the affirmative.

The statute last cited permits a deduction from the savings deposits of an institution upon which it pays interest the amount thereof invested in "bonds, notes, or debentures the principal or interest of which is guaranteed by the United States." The federal act, Title 38 USCA, s. 694, provides for the guarantee by the Federal Government of certain loans to veterans. An examination of the language of the federal law and of the pertinent federal regulations, Title 36 CFR, s. 36.4000, et seq., demonstrates clearly that the guarantee of the United States is truly a guarantee in the technical sense of the word and is not, for example, a contract of indemnity or of insurance. Such guarantee is, therefore, within the meaning of RSA 84:9 (R.L., c. 85, s. 9).

Your attention is invited to the fact that the guarantee of the Federal Government with respect to these loans is not fixed in dollars, but is stated, rather, in terms of a proportion of the unpaid balance of the obligation. See, e.g., Title 38 USCA, s. 694 (b). This may introduce factors of calculation which will be pertinent in the determination of the actual amount guaranteed at any time by the United States.

C O P Y

Lawton B. Chandler

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Another factor of importance is that the Servicemen's Readjustment Act contains provisions for the insurance of loans to veterans as an alternative to the extension of a guarantee. Title 38 USCA, s. 694i. In this regard you will be aware that loans insured by the United States do not enjoy the same status with respect to deductibility as loans guaranteed by the government.

I return herewith the letter which Mr. Nassikas addressed to you under date of September 22, 1955, together with its enclosures which, I understand, he wishes returned to him.

Very truly yours,

Warren E. Waters
Deputy Attorney General

WEN/aml
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